

ÆGIS



Addressing threats that affect your bottom line

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Intellectual property being stolen or at risk? Call us!

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1. Asset Location and Due Diligence — Breaking trust, breaking trusts

We all too frequently get calls from people who have lost money. They frequently know where the money is, but believe that it cannot be seized because it is held in trust, or otherwise exempt. A common trick to hide stolen assets is to moving them from non-exempt to exempt categories such as trusts, contract annuities, homes, insurance policies, retirement plans, and relatives. Unfortunately, many people believe that exempt funds cannot be touched. So what exactly does exempt mean, and why don't we care?

When discussing garnishment, assets fall into one of two categories, exempt and non-exempt. As a judgment creditor, you can garnish non-exempt assets to satisfy a judgment.

Exempt Assets

Exempt assets, as our potential clients are painfully aware, cannot be seized by a judgment creditor to satisfy a judgment. Thus the name, exempt, since they are exempt from garnishment or seizure.

Exempt assets that cannot be garnished are:

- your homestead up to the state's value ceiling
- qualified retirement plans
- a portion of current wages for personal services (except for enforcement of child support)
- professionally prescribed health aids of a debtor or a dependent of the debtor
- alimony, support, or separate maintenance received by the debtor

In addition, depending upon the state, some net aggregate value of the following types of assets:

- home furnishings, including family heirlooms
- provisions for consumption
- farming or ranching vehicles and implements, if you are a farmer
- tools, equipment, books, and apparatus used in a trade or profession, including boats and motor vehicles
- clothes
- jewelry (not to exceed some specified dollar amount)

- some specified number of firearms
- athletic and sporting equipment, including bicycles
- a vehicle, up to some specified value, owned by one who holds a drivers license or who does not hold drivers license but who relies on another person to operate the vehicle for the benefit of the non-licensed person
- in Texas two horses, mules, or donkeys, and a saddle, blanket, and bridle for each; twelve head of cattle; sixty head of other types of livestock; one hundred twenty fowl; household pets

Non-Exempt Assets

Everything else is subject to being seized by a judgment creditor. All business assets are non-exempt assets. The ownership of the business (such as in the form of stock or partnership interest) is most likely a non-exempt asset. Stocks, bonds, bank accounts, et cetera are all non-exempts assets.

And why we don't care

The line between exempt and non-exempt blurs a great deal when there is a fraud. What frequently happens with the more sophisticated fraudster is that the stolen money is placed into some asset either not titled in their name, such as a trust or a company, or the assets are titled in the name of someone else such as a relative or a friend. Generally if the asset investigator can show clearly that there is no way that the fraudster could have obtained or maintained this asset without the benefit of the stolen funds, the asset – whether it is now structured as one of the exempt asset or titled in another persons name – is no longer exempt!

For example, a fraudster pilfered many millions of dollars from his employer over a long period of time. He was convicted and sentenced to jail. His house was sold. He claimed the homestead exemption, and that a portion of the value of the house was his. It was shown that stolen money went into buying the home, and that he could not have purchased maintained the home without the stolen funds. The judge ruled that since the money used to buy the home – and the money used to maintain the home – all came from the predicate offense of a crime, not only were these funds no exempt assets.

And what happens when a third party help the person hide the money? The third party may become liable for a portion or all of the judgment! And in

our experience, when you start seizing the property of friends and relatives of fraudsters, they become very cooperative....

It is important to be aware that the roles played by investigators and attorneys are distinct and clear. Investigators develop information that can be used by the attorneys in court to move assets from the exempt category into the category of non-exempt assets. Both parties must be very familiar with the level and quality of information needed, and with the motions and pleadings that need to be filed. If the team supporting you has not done this kind of specific work before, don't let them practice on you. Get experienced professionals.

2. OPSEC, Economic Espionage, and Competitive Intelligence — We are not alone...

We hear lots of silly questions, like how come the Japanese smoke so much but don't have lung cancer? And how come there is no speed limit on the Autobahn but there are no automobile accidents? And why do we have information stolen but other countries don't?

While we won't address the first two canards here, an article by Cho Jin-seo in the 19 June 2006 issue of Korea Times entitled *Half of Top Tech Firms Suffer Leaks* certainly addresses the latter question.

The article notes that the rate has increased in the last few years, which they attribute to changes in technology – it is easier to steal now than it was when you had to photocopy everything and carry it out – and to a changed work ethic related to the disappearance of lifetime careers with a single employer.

About sixty-five percent of the incidents involved former employees, eighteen percent involved current employees, and sixteen percent involved subcontractors. Since all of these are essentially crimes of opportunity, it appears that the Korea Industrial Technology Association, sponsor of the study, did not or could not track the kinds of deliberate theft by competitors and adversaries that we try to prevent through implementation of an OPSEC program.

What can we learn from this? Firstly, we can learn that, just as smoking and fast driving can lead to death, failure to implement measures to prevent crimes of opportunity leads, universally, to loss of intellectual property. Secondly, we can learn that you only find what you look for, and that if you haven't implemented an OPSEC program you are unlikely to prevent theft of which you will likely never be directly aware.

Of course, you might be aware of these thefts indirectly. You will see them in competitive products; in competitive products beating you to market; in products that can sell at a lower price because they come with no pesky R&D overhead. You might be aware of them in a pattern of lost bids; closed divisions; staff laid off. You might be aware of them when your company closes or you lose your job to a competitor that shouldn't be competitive.

We believe that a significant portion of these losses are avoidable, and that it makes more sense to recognize that there is a problem and deal with it than to simply pretend that it can't be happening to us because it isn't happening to them. It is happening to them, and it is happening to us.

Oh, and you should stop smoking, and slow down on the highway.

3. Executive Protection — Tac-Pack

As readers know, we are very concerned with medical issues. One of the things we carry with us is the Tac-Pack concealable trauma pack (<http://www.traumapacks.com/>). This vacuum-packed kit will fit comfortably in a coat pocket, and contains:



Protective Gloves
Gauze sponges
Roll bandages
1 and 2 inch Tape
Transparent dressings
Protective N-95 Respirator Mask.

In case of an injury, you:

- Step 1: Open Tac-Pack by tearing along tear notches.
- Step 2: Pull out contents.
- Step 3: Put on the protective gloves.
- Step 4: Break open sterile gauze and apply to wound.
- Step 5: Apply large dressing (Abd Pad) on top of gauze.
- Step 6: Open sterile roll bandage to secure dressings or use 1 or 3 inch supplied tape.
- Step 7: Apply transparent dressing to gunshot or stab wound.
- Step 8: Put the n-95 Respirator mask on the victim if there is smoke or a cloud of particulate matter (we assume you carry your own smoke mask – see August 2004 issue of *ÆGIS*).

You never know when you will need emergency medical tools, but you can be sure that the need will be sudden and unexpected. As an example, the

other day this editor was at a dance, and someone fell, somehow creating a surface wound from which a surprising amount of blood was pouring. While we are sure the dance school has first aid supplies somewhere, within a minute we had the wound properly bandaged, and the victim was headed off for more professional treatment.

Thus, while we tend to think of these as supplies for major accidents or traumas, like a shooting, a stabbing, or an automobile accident, the likelihood is high that they will be needed in a more benign situation. While this case was clearly not life-threatening, dealing with it promptly and efficiently because we had the materials at hand kept the situation from getting worse.

The Tac-Pack retails for \$20, but they will give a discount to AEGIS subscribers (or you can look for a discounted source on-line). At this price we are hard pressed to see why you would not to have one available.

4. Technical Issues — Alternatives to liquids on commercial aircraft

Several years ago, a man brought several bottles of water on board an aircraft in China. As it turned out, the bottles actually contained white gas, such as is used for camping stoves. When the plane had reached maximum altitude, the man – who was in severe financial difficulties and had recently purchased a great deal of life insurance – poured the gas all over the inside of the plane and lit a match. The fire killed all on board in matter of minutes, and the plane crashed. As a consequence no liquids are allowed on aircraft in China.

We have learned to deal with this in China, and, since it is only a matter of time before this practice gains universal acceptance outside of China, we pass on the following tips for other travelers in a world where liquids cannot be carried onboard.

Carry-on

Shampoo and shaving cream: We use a Neutrogena bar for both. Plus, it leaves no residue.

Toothpaste: We use tooth powder and or baking soda. Sometimes supplemented with breath strips.

Contacts: We carry a *very* small plastic bottle with the contact solution on our person.

Deodorant: We use stick or the crystal salt deodorant

SunScreen: Ozone 50+ sunblock stick by Hawaiian tropic.

Bug Repellant: Most are available in stick or wipes (it is 50-50 on wipes getting through).

Colognes and perfumes: We spray our choices on paper towels and seal them in small sealable plastic bags, being very careful to get out as much air as possible. Double seal the baggies in a second bag, or everything in the bag will smell embarrassingly good!

Prescriptions: The label on the prescription better have the same exact name on it as you have on your ticket and your ID.

Leave the lap top at home and travel with a new memory stick with e-mail software (see the July 2006 issue of *ÆGIS*) and (encrypted) needed records.

Wear slip on / off shoes - even if you need good dress shoes where you arrive, put those in your checked luggage and switch them after you retrieve your luggage on landing.

For speed and ease, carry a transparent bag that will hold all of the stuff in your pockets. Fill it up before you get to the scanner and put in a tray, and pick it up on the other side. The bag can be a simple Ziploc® bag or something fancier.

Liquids in checked bags:

We travel a great deal to buggy places so we buy a pump spray (aerosols in luggage are frowned-upon) of Off or similar products with DEET.

Unfortunately, these and other pump bottle will leak in your luggage. (We learned this when we arrived to discover that everything we had in the bag smelled like DEET). If you are lucky, you will find a solid top that will temporarily replace the pump. If not, we now wrap the tops of the bottles with a paper towel and use a rubber band to hold the paper towel on bottle. This will catch most of the leaks. Then we put the bottles in a plastic bag.

When traveling it is fun to bring back a new booze found locally but not at home. In a liquid-free carry-on environment it needs to be in your checked bags. Wrap it cardboard, and then in bubble wrap. Pack in center of your bag (this is when having hard luggage – see June 2006 issue of *ÆGIS* – pays off). With duty free, pick it up at the airport and place it in your bag before you check it. If it is an airport where bags are checked before you go to duty free, you may have a problem. We will have to see how this is handled in the future.

And a warning...

Remember that you can no longer lock checked bags. This has been a boon for thieves, and it means that you can no longer put jewelry, cameras, laptops, or valuables in a checked bag with any assurance of them being in the bag when you finally arrive.

5. Real Stories from the Field — Porting mobile phone numbers

When AT&T Wireless was going GSM, they offered an unlimited talk-time plan for \$99 as an inducement for people to switch from AMPS/DAMPS. We are pretty chatty, and took the plan. GSM coverage was fairly spotty throughout the country as a whole, but it worked well in this editor's office and home, and we soon had pretty much stopped using our home or office phones, and eventually go rid of everything but the mobile phone.

Unfortunately, a problem developed where we got frequent drops in calls from our office – a problem that continued after Cingular took over the network. There was a consensus opinion from the herd of support people that it was a problem with the local (we could see it from our window) cell. It happened to other AT&T Wireless users when they came to our office, and nobody could fix it.

When it was announced that telephone numbers could now be ported from carrier to carrier, independent of whether they were originally issued to mobile phones or landlines, this editor was very excited. A decision was made to port the number to a landline. While in general this worked out well, there are some caveats about which we should have known, but didn't.

According to Verizon, when a number is ported to another service provider, it isn't actually moved to the new provider. What really happens is that the number is, in essence, forwarded from the original service provider. Thus, when one calls our number it goes to an AT&T Wireless switch (now owned by Cingular), and is then sent on to Verizon, who puts it through to us.

What does this mean in real life? Well, according to Verizon it means that if you have call waiting and call forwarding, and your calls are forwarded, and someone has called, if anyone else calls they will get a busy signal, rather than you getting an indication that there is another caller.

While porting of numbers is a wonderful idea, it is still not quite ready for prime time. So if you decide to port a number, find out what limitations will come with the port. It may (or may not) be better to just get a new number.

6. Book and Product Reviews

IBackup

<http://www.ibackup.com/>

The other day we got a call from a colleague whose hard drive had died. He lost a lot of information, largely because he had not backed up his machine. Equally embarrassing, some time ago we spoke with someone who had suffered a fire in his office, and both his computer and his backup disks were destroyed. While sophisticated corporations know they need to have offsite data storage, many small businesses and individuals simply don't think about this.

We ourselves are big believers in offsite data storage, and an easy way to handle this is through the Internet. Our current favorite for on-line backup is IBackup. IBackup gives a number of browser based and downloadable application solutions for Windows, Linux/Unix, and Mac platforms.

- IDrive ASP is a specialized network drive for working with database like files directly on the servers. IDrive ASP supports QuickBooks, Act!, Access and others!
- There is a browser-based solution that allows you to upload and download files.
- IDrive Multimedia supports concurrent operations on a single file for many windows applications. It streaming ability for music and video, and is also recommended for databases.
- IDrive maps the on-line data so that it looks like an accessible local drive.
- You can use your FTP program.
- IBackup for Windows allows both drag-and-drop between the desktop to the server, and automates backups.

For this article, our interest is IBackup for Windows. Once the IBackup software is downloaded and installed, backup is a three stage process.

First, you decide what you want to back-up. You can decide which specific directories and files should be backed-up. You can also choose categories, which include Outlook, Outlook Address Book, Outlook Express, Express Address Book. Desktop Items, My Documents, My Music, My Pictures, My Received Files, My Videos, My Favorites, MSN Messenger, Internet Explorer, Yahoo Messenger, Mozilla Firefox, Acrobat Reader, Adobe

Photoshop, Adobe Illustrator, Intuit Quicken, Intuit QuickBooks, Intuit Furbo Tax, Money, Access, Excel, Word, Powerpoint, OneNote, Autocad, Corel Draw, and WordPerfect. There is also a facility for backup and restore of SQL Server, Exchanger Server, and the system state.

The second step is to manually initiate a backup of these files, which will take some time, depending on how many files will be uploaded and the speed of your connection.

The final step is to schedule automatic backups. These are smart backups, and only transfer over new or changed files.

There is also the ability to synchronize the backed-up files with your computer, which will automatically get rid of on-line files that have previously been removed from your machine. There are other features available, but this gives a good overview of the system.

How much does this cost? Well, if you are an individual user, and need only five Gig or less it will cost you \$9.95 a month or \$99.50 a year. Ten GB is \$19.95/199.50, and fifty Gig is \$49.95/\$499.50. Frankly, the combination of secure off-site storage, and the ability to access the files from anywhere we have Internet access makes this a good deal in our opinion.

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2. Sarbanes-Oxley requires internal controls tracking the costs, and impact on valuation, of competitive intelligence, economic espionage, and information theft.
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